

MEMORANDUM ENDORSED

Federal Defenders OF NEW YORK, INC.

Southern District
52 Duane Street-10th Floor, New York, NY 10007
Tel: (212) 417-8700 Fax: (212) 571-0392

David E. Patton
Executive Director

Southern District of New York
Jennifer L. Brown
Attorney-in-Charge

October 9, 2020

VIA ECF

Honorable Gregory H. Woods
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 10/10/2020

Re: United States v. Cynthia Jordan,
19 Cr. 478 (GHW)

Dear Judge Woods:

On February 4, 2020, the Court sentenced Ms. Jordan to a term of imprisonment of one year and one day plus a term of supervised release of three years. The Court granted her request to surrender for service of that sentence on May 4, 2020. On March 20, 2020 and again on July 16, 2020, the Court extended the surrender date in light of concerns over the serious risks to Ms. Jordan's health due to the dangers associated with COVID-19. I now write to respectfully request a third extension of the surrender date currently scheduled for November 12, 2020, in light of the unfortunate reality that, until a vaccine is developed and available for distribution, those risks remain unabated.

The COVID-19 pandemic is far from over or contained and a vaccine has not yet been approved by the FDA. As reported on October 7, 2020, in USA Today, "U.S. coronavirus cases surpassed 7.5 million on Wednesday with most states seeing a rise in cases – nine months into the pandemic – and a startling nine states setting ominous, seven-day records for infections . . . In all, 39 states reported more coronavirus cases in the last week than they had in the week before."¹ While the Trump Administration's Operation Warp Speed's goal is to have safe and available

¹ <https://www.usatoday.com/story/news/health/2020/10/07/united-states-coronavirus-cases-nine-states-records/5906943002/>

vaccines by January 2021,² most experts agree that a vaccine will not be widely available until the middle of 2021.³

Prison facilities remain an extremely dangerous place for vulnerable individuals during the COVID-19 pandemic. And all incarcerated individuals remain at special risk of infection and are less able to participate in proactive measures to keep themselves safe. Despite the fact that the Bureau of Prisons (“BOP”) has taken measures to slow the transmission of the coronavirus in its jail facilities, it has not been eradicated and the vast majority of facilities still report positive inmates and staff numbers.⁴

Concerned over the lack of protection and needless suffering - and deaths - of vulnerable inmates in federal custody, on October 2, 2020, Senators Richard Durbin and Elizabeth Warren wrote a pair of letters to United States Attorney General William Barr and BOP Director Michael Carvajal demanding action and answers.⁵ The Senators wrote,

“[T]he virus has spread to almost every BOP institution and dozens of halfway houses. At least 133 inmates and two staff members have died due to the coronavirus, and these deaths have occurred in more than 40 facilities. Almost 17,000 inmates and staff have tested positive since the pandemic began and currently there are active cases at more than 150 BOP institutions and halfway houses. More than 50 facilities currently have more than five active inmate and staff cases, which is undoubtedly a ‘significant presence,’ given the ease with which this disease spread. Based on BOP statistics, the rate of infection within BOP remains nearly four and a half times higher than in the general population. This is mounting evidence that efforts to contain the virus within BOP facilities are failing.” (Footnote omitted). Id.

As the Court is aware, Ms. Jordan has a host of serious medical conditions, including but not limited to a compromised immune system, Type II diabetes, high blood pressure and chronic obstructive pulmonary disease (COPD) that place her at

² <https://www.hhs.gov/coronavirus/explaining-operation-warp-speed/index.html>.

³ <https://www.usatoday.com/story/news/health/2020/10/05/donald-trump-covid-19-vaccine-momentarily/3632646001/>. See also <https://www.bbc.com/news/health-51665497>.

⁴ <https://www.bop.gov/coronavirus/>

⁵

<https://www.warren.senate.gov/imo/media/doc/2nd%20Letter%20to%20DOJ.BOP%2010.2.2020%20Final.pdf>

a substantially higher risk for severe illness, and potentially death, should she contract COVID-19.⁶ In addition, Ms. Jordan was recently diagnosed with a large cyst on her kidney which, though it does not currently require surgical intervention, requires continued monitoring of its size every 90 days by sonogram. A prison facility is an extremely dangerous place with potentially deadly consequence for Ms. Jordan given her age and medical conditions and she is, understandably, terrified of contracting COVID-19 while incarcerated. The truth is, Ms. Jordan will not be safe in a BOP facility until she is vaccinated against the coronavirus.

For the foregoing reasons, I respectfully request that the Court again extend Ms. Jordan's surrender date and consider an extension to late spring or early summer of 2021. If a vaccine is developed and available for distribution sooner, Ms. Jordan is prepared to promptly get vaccinated and to advance her date of surrender.

Respectfully submitted,

/s/ Amy Gallicchio

Amy Gallicchio, Esq.
Assistant Federal Defender
Office: (212) 417-8728
Mobile: (917) 612-3274

CC: AUSA David Raymond Lewis

Application granted. The surrender date for Ms. Jordan is extended to April 12, 2020.

The Clerk of Court is directed to terminate the motion pending at Dkt. No. 42.

SO ORDERED
October 10, 2020



GREGORY H. WOODS

United States District Judge

⁶ https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html.